



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI

GOVERNOR

DAVID P. LITTELL

COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection
FROM: Kurt Tidd PE, Bureau of Air Quality
SUBJECT: We Care Cleaners, Kittery Maine
DATE: August 20, 2009

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Statutory and Regulatory References:

Maine's Rule for *Perchloroethylene Dry Cleaners Regulations* 06-096 CMR 125 requires that perchloroethylene dry cleaners in the State of Maine keep certain records and register annually with the Department.

Location:

Kittery, Maine

Description:

We Care Cleaners was required to register annually with the Department as required by Maine's Rule for *Perchloroethylene Dry Cleaners Regulations* 06-096 CMR 125. We Care Cleaners failed to register and after further investigation it was determined that We Care Cleaners failed to keep certain records as required by 06-096 CMR 125.

Environmental Issues:

Maine's Rule for *Perchloroethylene Dry Cleaners Regulations* 06-096 CMR 125 establishes standards for dry cleaning facilities within the State of Maine. By regulating dry cleaning facilities that are operated within the State, the amount of pollutants from area sources can be limited, improving the quality of the air the public breathes.

Department Recommendation:

Staff recommends approval of the Consent Agreement which requires We Care Cleaners to comply with the requirements of Maine's Rule for *Perchloroethylene Dry Cleaners Regulations* 06-096 CMR 125 and provides for payment of civil penalties in the amount of \$2,100.00. The penalty was a negotiated settlement based on the Air Bureau's penalty assessment guideline.

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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
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DAVID P. LITTELL
COMMISSIONER

IN THE MATTER OF:

WE CARE CLEANERS, INC.) ADMINISTRATIVE CONSENT
YORK COUNTY) AGREEMENT
KITTERY, MAINE)
AIR QUALITY VIOLATIONS)

This Agreement by and among We Care Cleaners, Inc. ("We Care Cleaners"), the Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General is entered into pursuant to 38 M.R.S.A. § 347-A.

The parties agree as follows:

1. We Care Cleaners is a Maine Corporation which operates a dry cleaning facility.
2. During times relevant to this Agreement, We Care Cleaners was subject to Maine's *Protection and Improvement of Air laws* (Air Act), 38 M.R.S.A. § 581-610-B and the Maine's Rule for *Perchloroethylene Dry Cleaners Regulations* 06-096 CMR 125 (effective June 2, 1991)
3. Maine's Rule for *Perchloroethylene Dry Cleaners Regulations* 06-096 CMR 125 (4), (5) and (6) which state in relevant part;

(4). Compliance Methods and Monitoring Requirements.

- A. Carbon Adsorber Systems. Compliance with the emission limit in Section 3(B)(1) shall be determined by a weekly monitoring test and a sensory inspection and any other evidence demonstrating that the carbon adsorber has been properly installed, operated and maintained.

(5). Recordkeeping Requirements.

- A. All dry cleaning facilities must keep a copy of the design specifications and operating manual for each dry cleaning machine and control equipment on-site; and keep receipts of perchloroethylene purchases and record in a log the following:

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- (1) The volume of perchloroethylene purchased each month. This number represents the perchloroethylene purchases for a given month.
 - (2) The calculated value of the twelve-month rolling total perchloroethylene consumption limit. To calculate the twelve-month rolling total perchloroethylene consumption limit, the owner/operator shall perform the following calculations on the first day of every month:
 - (a) Sum up the volume of perchloroethylene purchases made in each of the previous 12 months, as recorded in the log.
 - (b) If no perchloroethylene purchases were made in a given month, then the perchloroethylene consumption for that month is zero gallons.
 - (c) The highest twelve-month rolling total is the facility's perchloroethylene "consumption limit."
 - (3) The dates that the system was inspected for perceptible leaks, and the name and location of any parts where detectable leaks were found.
 - (4) The dates of repair and records of written or verbal orders for repair parts to demonstrate compliance with 3(C)(3).
 - (5) The date and temperature monitoring results, if a refrigerated condenser is used for compliance with section 3(B)(2) and 4(C).
 - (6) The date and colorimetric detector tube monitoring results, if a carbon adsorber is used for compliance with section 3(B)(1) and 4(A).
 - (7) The log, perchloroethylene receipts, all manufacturer design specifications and operation manuals for each machine and control device located at the facility must be maintained on site for at least 5 years and must be made available to the Department upon request.
- (6). Registration Requirements.
- A. The owner or operator of all dry cleaners shall register with the Department annually.

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4. We Care Cleaners failed to register with the Department as required by CMR 125 (6). The Department issued a Letter of Warning ("LOW") to We Care Cleaners for this violation on March 4, 2009.
5. During an annual compliance inspection conducted by Department Staff on April 4, 2009 the following violations were documented;
 - a. Failing to keep PERC purchase records for the most current 12 month period as required by 06-096 CMR 125 (5)(A)(1)
 - b. Failing to keep a log of the 12 month rolling total of PERC consumption as required by 06-096 CMR 125 ((5)(A)(2)
 - c. Failing to keep a log of inspection and repairs as required by 06-096 CMR 125(5)(A)(3) and (4)
 - d. Failing to inspect machine components as required by 06-096 CMR 125 (4)(A).
 - e. Failing to have a PERC leak detector and test for leaks on a weekly basis as required by 06-096 CMR 125 (4)(A).

The Department issued a LOW to We Care Cleaners for these violations on April 10, 2009

6. Department Staff notified We Care Cleaners by a Notice of Violation ("NOV") sent on June 12, 2009 of the Air Emissions violations described in paragraphs four (4) and five (5).
7. For the purposes of this Agreement, We Care Cleaners agrees that it received proper notice of all violations identified herein pursuant to 38 M.R.S.A. § 347-A(1)(B).
8. Pursuant to 38 M.R.S.A § 341-D(6)(C) and 347-A(1)(A)(1), Administrative Consent Agreements must be approved by the Board of Environmental Protection ("Board"), which is part of the Department.
9. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.

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10. To resolve the violations identified in this Agreement, We Care Cleaners agrees to:

- A. Pay to the Treasurer, State of Maine, immediately upon signature of this Consent Agreement a civil monetary penalty in the amount of two thousand, one hundred dollars (\$2,100.00) for the violations described in paragraphs 4 and 5.
- B. Within 30 days of signature of this Agreement submit to the Bureau of Air Quality, an annual registration as required by CMR 125 (6).

11. The Department and the Office of the Attorney General grant a release of their causes of action against We Care Cleaners for the specific violations listed in paragraphs four (4) and five (5) of this Agreement on the express condition that all actions listed in paragraph ten (10) are completed in accordance with the terms and conditions of this Agreement.

12. This release shall not become effective until all requirements of this Agreement are satisfied.

13. Non-compliance with this Agreement voids the release set forth in paragraph eleven (11) of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. § 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.

14. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all local, state and federal laws, including but not limited to licensing requirements.

15. The provisions of this Agreement shall apply to, and be binding on, the parties, their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

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IN WITNESS HEREOF the parties hereto have executed this Agreement of five (5) pages.

WE CARE CLEANERS INC.

BY: PRESIDENT  7/25/09
Title DATE

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: _____
Susan M. Lessard, Chair DATE

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: _____
Gerald D. Reid, Assistant Attorney General DATE